

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

JOSEPH ANTWAN GLENN

PLAINTIFF

v.

No. 2:04CV348-M-A

BOYD P. ATKINSON, ET AL.

DEFENDANTS

**ORDER OF DISMISSAL**

The court, *sua sponte*, takes up the dismissal of the plaintiff's case filed under 42 U.S.C. § 1983. The plaintiff, a prisoner proceeding *pro se*, seeks to lower his bond set under the laws of Mississippi. The plaintiff does not challenge the conditions of his confinement, as required under 42 U.S.C. § 1983; he instead challenges the fact and duration of his confinement, a claim which he should have brought as a *habeas corpus* claim under 28 U.S.C. § 2241. A claim under 42 U.S.C. § 1983 in a case challenging bond does not accrue until the bond has been invalidated. *Heck v. Humphrey*, 512 U.S. 477, 489-90 (1994). As the plaintiff has not shown that his bond has been found to be excessive by the grant of a writ of *habeas corpus*, his claim under 42 U.S.C. § 1983 is not ripe for consideration and should be dismissed without prejudice to his ability to file a *habeas corpus* claim under 28 U.S.C. § 2241.

**SO ORDERED**, this the 15<sup>th</sup> day of August, 2005.

/s/ Michael P. Mills  
UNITED STATES DISTRICT JUDGE